

REMARKS

Claims 1-29 are pending in the case, each of which was rejected as follows:

- claims 1-5, 7, 9-21, and 24-29 as anticipated under 35 U.S.C. §102(e) by U.S. Letters Patent 6,870,529 (“Davis”); and
- claims 6, 8, and 22-23 as obvious under 35 U.S.C. §103(a) over Davis in view of U.S. Letters Patent 6,618,045 (“Lin”).

Applicants traverse each of the rejections.

I. CLAIMS 1-5, 7, 9-21, AND 24-29 ARE NOVEL

The Office rejected claims 1-5, 7, 9-21, and 24-29 as anticipated under 35 U.S.C. §102(e) by U.S. Letters Patent 6,870,529 (“Davis”). An anticipating reference, by definition, must disclose every limitation of the rejected claim in the same relationship to one another as set forth in the claim. M.P.E.P. § 2131; *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990). Applicants respectfully submit that Davis fails to meet this standard as to the amended claims.

In the previous round of examination, each of the independent claims 1, 11, 19-20, and 25 was amended to recite a user authentication prior to retrieval of a user profile associated with the authenticated user identification. Each of the dependent claims 2, 12, 16-18, 21-23, and 26 incorporates this limitation by virtue of their dependence. 35 U.S.C. §112, ¶4. Davis fails to disclose this limitation.

The Office cites two portions of Davis for teaching this limitation. A close examination, however, reveals that they teach only user identification, not authentication. The first citation is to col. 3, lines 4-5, which read:

As other users log onto the computer, ambient light levels and corresponding brightness levels are stored in association with the user identifier for the current user.

Note that there is no discussion of authentication, only “logging in” and “user identification.”

The second citation is to col. 4, lines 50-52, which read:

Brightness control monitor 60 obtains a user identifier for a user currently utilizing computer 10 from CPU 50 or one of the I/O devices on bus 54.

Note, again, that there is no discussion of authentication, only “user identification.”

Thus, the Office has failed to adduce an express teaching of “authentication”. The *prima facie* anticipation case fails unless the cited teachings inherently disclose “authentication”. Inherency in anticipation requires that the asserted proposition *necessarily* flow from the disclosure. *In re Oelrich*, 212 U.S.P.Q. (BNA) 323, 326 (C.C.P.A. 1981). It is not enough that a reference could have, should have, or would have been used as the claimed invention. “The mere fact that a certain thing *may* result from a given set of circumstances is not sufficient.” *Oelrich*, at 326, quoting *Hansgirk v. Kemmer*, 40 U.S.P.Q. (BNA) 665, 667 (C.C.P.A. 1939).

The excerpts cited by the Office mention, in relevant part, “user login” and “user identification.” The notion of “login” only *requires* “identification”—it does not necessarily imply “authentication.” Many home computers, for instance, have several accounts on them, not all of which require authentication. The undersigned, for example, has one home computer with and Administrator’s account that is password protected. To log into this account requires not only “identification” (i.e., selection of the “Administrator” account), but also authentication (i.e., entry of a password). Another account, however, is general usage. It only requires identification (i.e., anyone who is not the Administrator). There is no need for authentication of any kind.

Thus, “user login” does not necessarily require “authentication”, only “identification.” Davis furthermore confirms that “identification” does not require authentication by the exemplary list of “user identifiers” it gives in col. 2, at lines 62-64. Other passages in Davis discuss “user login” in the context of “identification” without any mention of “authentication.” See col. 3, lines 4-7.

It therefore follows that Davis does not inherently disclose “authentication” of any kind since it only discusses “login” and “identification”, neither of which necessarily implies authentication. As established above, Davis also does not expressly disclose “authentication”. The Office has therefore failed to establish that Davis anticipates any of claims 1-5, 7, 9-21, and 24-29. M.P.E.P. § 2131; *In re Bond*, 15 U.S.P.Q.2d (BNA) 1566, 1567 (Fed. Cir. 1990).

III. CLAIMS 6, 8, AND 22-23 ARE UNOBVIOUS

The Office rejected claims 6, 8, and 22-23 as obvious under 35 U.S.C. §103(a) over U.S. Letters Patent 6,870,529 (“Davis”) in view of U.S. Letters Patent 6,618,045 (“Lin”). To establish a *prima facie* case of obviousness, the prior art reference (or references when

combined) must teach or suggest all the claim limitations. M.P.E.P. § 706.02(j); *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974). Applicants respectfully submit that the art of record fails to meet this standard as to the amended claims.

Again, as was established above, each of the independent claims 1, 11, 19-20, and 25 has been amended to recite a user authentication prior to retrieval of a user profile associated with the authenticated user identification. Each of the dependent claims 6, 8, and 22-23 incorporates this limitation by virtue of their dependence. 35 U.S.C. §112, ¶4.

These rejections rely on Davis to teach the “authentication” recited in the claims and, as established above, Davis does not. The Office has conceded that Lin omits any such teaching by withdrawing the earlier anticipation rejections based on Lin in light of the amendment adding “authentication.” Applicants note that Davis does teach the use of unique user identifiers in col. 2, at lines 62-64, but that the authenticating nature of these identifiers is not employed. That is, these identifiers are only used for identification and not for authentication and, indeed, their use would obviate any need for authentication. Thus, Davis cannot legitimately be construed to teach “authenticating” an “user identification.” Accordingly, Applicants respectfully submit that the art of record fails to render obvious any of claims 3-10, 13-15, 24, and 27-29. M.P.E.P. § 706.02(j); *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (CCPA 1974).

CONCLUSION

Applicant therefore submits that the claims are definite and requests that the rejections be withdrawn.

Respectfully submitted,

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